

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 24 of the Bill seeks to insert a new Chapter X-A in the Income-tax Act, 1961, relating to General Anti-Avoidance Rule. This clause seeks to insert new sections 95 to 102 in the Income-tax Act. Section 101 of the aforesaid Chapter seeks to provide that the provisions of the said Chapter shall be applied in accordance with such guidelines and subject to such conditions as may be prescribed by rules. It is proposed to empower the Board to make rules relating to guidelines and conditions for the application of the provisions of the said Chapter.

Clause 30 of the Bill seeks to insert a new Chapter XII-EA to provide for special provisions relating to tax on distributed income by securitisation trusts. This clause seeks to insert new sections 115TA to 115TC. The said clause 30 seeks to insert a new section 115TA to provide for tax on distributed income to investors. Sub-section (3) of the said section proposes to confer power on the Board to make rules in respect of the form, manner of furnishing the statement, giving the details of the amount of income distributed to investors during the previous year, the tax paid thereon and such other relevant details to the income-tax Authority.

The *Explanation* to new section 115TC seeks to define various terms specified therein. Clause (d) of the said *Explanation* defines the term "securitisation trust". It is proposed to confer power on the Board to make rules in respect of the conditions to be fulfilled by a trust, being a special purpose distinct entity or Special Purpose Vehicle, to mean a securitisation trust.

Clause 35 of the Bill seeks to insert a new section 144BA which provides for making of reference to the Commissioner, wherever the Assessing Officer considers it necessary to declare an arrangement as an impermissible avoidance arrangement and to determine the consequence of such an arrangement within the meaning of Chapter X-A. Sub-section (18) of the section 144BA seeks to confer power on the Board to make rules in respect of remuneration to be paid to the Chairperson and members of the Approving Panel. Sub-section (21) of section 144BA empowers the Board to make rules for the purposes of constitution and efficient functioning of the Approving Panel and expeditious disposal of references received by it.

Clause 52 of the Bill seeks to insert new sections 14A and 14B in the Wealth-tax Act, 1957. Section 14A proposes to confer power on the Board to make rules providing for a class or classes of persons who may not be required to furnish along with the return documents, statements, receipts, audit reports, etc. (which are otherwise required under any other provisions of the Wealth-tax Act) to be produced before the Assessing Officer. Section 14B of the said Act seeks to confer power on the Board to make rules to provide for various matters, such as, the class or classes of persons who shall be required to furnish the return in electronic form; the form and the manner in which the return in electronic form may be furnished; the documents, statements, receipts, certificates, audit reports, reports of registered valuer or any other documents which may not be furnished along with the return in electronic form and the computer resource or electronic record to which such return may be transmitted under section 14B.

Sub-clause (L) of clause 93 of the Bill seeks to insert a new sub-section (1J) in section 95 of Chapter V of the Finance Act, 1994 relating to removal of difficulties. The proposed sub-section empowers the Central Government to issue an order to remove any difficulty that may arise in implementing the proposed legislation and such power shall be exercisable for a period of one year from the date of assent to the Bill.

Clause 103 of the Bill seeks to empower the Central Government to issue order to remove any difficulty that may arise in implementing the provisions of the Scheme and such power shall be exercisable for a period of two years from the date of coming into force of the Scheme.

Clause 104 of the Bill seeks to empower the Central Government to make rules to provide for (a) the form and the manner of making declaration under sub-clause (1) of clause 97; (b) the form and the manner of acknowledging the declaration under sub-clause (2) thereof; (c) the form and the manner of issuing acknowledgment of discharge of tax dues under sub-clause (7) thereof; (d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

Chapter VII of the Bill seeks to introduce new clauses 105 to 124 to provide for levy, collection and recovery of commodities transaction tax, furnishing of returns, assessment procedure, powers of assessing officers, chargeability of interest, levy of penalty, institution of prosecution and filing of appeals, etc.

Clause 110 of the Bill seeks to provide for furnishing of return in respect of all taxable commodities transaction by every assessee. Sub-clause (1) of clause 110 proposes to empower the Board to make rules in respect of the form, manner, the time within which and the particulars required to be mentioned in the return which is to be delivered or cause to be delivered or furnished in respect of commodities transaction tax.

In sub-clause (3) of clause 111 of the Bill, it is proposed to empower the Board to make rules in respect of the time within which refund of the commodities transaction tax is to be made to the seller from whom the amount was collected.

Clause 119 of the Bill seeks to provide that an assessee aggrieved by any assessment order made by the Assessing Officer may appeal to the Commissioner of Income-tax (Appeals) within thirty days from the date of receipt of the order of the Assessing Officer. Sub-clause (2) of clause 119 of the Bill seeks to confer power on the Board to make rules in respect of form and manner in which appeals are to be filed before the Commissioner of Income-tax against the orders of the Assessing Officer.

Clause 120 of the Bill seeks to provide for appeals against the orders made by the Commissioner of Income tax to the Appellate Tribunal. It is proposed in sub-clause (4) of the said clause to confer power on the Board to make rules in respect of the form and the manner in which appeal may be filed against an order of the Commissioner of Income-tax to the Appellate Tribunal.

Clause 124 of the Bill seeks to empower the Central Government to issue an order for removal of any difficulty that may arise in giving effect to the provisions of the Chapter VII, not inconsistent with the provisions thereof. This power is available to Central Government for a period of two years from the date on which the provisions of this Chapter come into force. Every order made under this clause shall be laid before each House of Parliament.

The matters in respect of which notifications may be issued or rules may be made in accordance with the provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

The delegation of legislative power is, therefore, of a normal character.